

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

OCT 18 2007

JORGE CHICO PARDO; et al.,

Petitioners,

v.

PETER D. KEISLER, \*\* Acting Attorney  
General,

Respondent.

No. 07-71451

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

Agency Nos. A96-051-250  
A96-051-251

MEMORANDUM \*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted September 10, 2007\*\*\*

Before: PREGERSON, THOMAS and RAWLINSON, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")  
decision denying petitioners' motion to reconsider.

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\* This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

\*\* Peter D. Keisler is substituted for his predecessor, Alberto R.  
Gonzales, as Acting Attorney General of the United States, pursuant to Fed. R.  
App. P. 43(c)(2).

\*\*\* This panel unanimously finds this case suitable for decision without  
oral argument. *See* Fed. R. App. P. 34(a)(2).

We have reviewed respondent's unopposed motion to dismiss, or in the alternative, for summary affirmance and the record, and we conclude that the

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questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard). Specifically, the BIA did not abuse its discretion when it denied petitioners' motion to reconsider based on petitioners' unsupported statements that they could now demonstrate the requisite hardship to their qualifying relatives and that they should be permitted to seek legalization. *See* 8 C.F.R. § 1003.2(b)(2); *Lara-Torres v. Ashcroft*, 383 F.3d 968, 972 (9th Cir. 2004), *amended by* 404 F.3d 1105 (9th Cir. 2005) (holding that BIA denials of motions to reopen or reconsider are reviewed for abuse of discretion).

All other pending motions are denied as moot. The temporary stay of removal and voluntary departure confirmed by Ninth Circuit General Order 6.4(c) and *Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004), shall continue in effect until issuance of the mandate.

PREGERSON, Circuit Judge, dissenting:

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I dissent. This case, and the 60 others like it filed today, will have an adverse effect on children born in the United States whose parents are illegal immigrants. When a parent is denied cancellation of removal, the government effectively deports the United States-born children of that parent. This

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unconscionable result violates due process by forcing children either to suffer de facto expulsion from the country of their birth or forego their constitutionally-protected right to remain in this country with their family intact. *See, e.g., Moore v. City of East Cleveland*, 431 U.S. 494, 503-05 (1977) (“Our decisions establish that the Constitution protects the sanctity of the family precisely because the institution of the family is deeply rooted in this nation’s history and tradition.”); *Stanley v. Illinois*, 405 U.S. 645, 651 (1972) (recognizing that “[t]he integrity of the family unit has found protection in the Due Process Clause of the 14th Amendment”).

Furthermore, as a nation we should recognize that many who came here illegally and many children born of illegal immigrants serve and have served with honor and distinction in our military forces, and many have laid down their lives on the altar of freedom.

As I have said before, “I pray that soon the good men and women in our Congress will ameliorate the plight of families like the [petitioners] and give us humane laws that will not cause the disintegration of such families.” *Cabrera-Alvarez v. Gonzales*, 423 F.3d 1006, 1015 (9th Cir. 2005).

**PETITION FOR REVIEW DENIED.**